

MEMORANDUM OF UNDERSTANDING

**between
UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST
SERVICE,
BIGHORN NATIONAL FOREST
and
THE STATE OF WYOMING**

This Memorandum of Understanding (MOU) is hereby entered into by and between the USDA Forest Service, Bighorn National Forest (Forest Service) and the State of Wyoming, by and through the Office of Federal Land Policy (State).

A. PURPOSE

This MOU is established to provide cooperation and coordination between the parties during revision of the Bighorn National Forest Land and Resource Management Plan (Forest Plan). This agreement establishes the State of Wyoming as a cooperating agency in this revision process.

In particular the Forest Service, as lead agency, has asked the State for assistance in the areas of social assessment, economics, and wildlife management. The State has special expertise in each of these areas. Information provided by the State will be used in the forest planning process.

B. AUTHORITY

This agreement is subject to 40 Code of Federal Regulations, Parts 1500 -1508 implementing the procedural provisions of the National Environmental Policy Act and Forest Service Handbook 1909.15. The State is authorized to enter into this MOU pursuant to Wyoming Statute 9-1-207, Wyoming Statute 9-1-209 and Executive Order 95-1.

C. STATEMENT OF MUTUAL INTERESTS AND BENEFITS.

Both parties will benefit through increased communication, sharing of information, cooperation and coordination. Information and expertise provided by the State will be used to develop alternatives for the Revised Forest Plan. In addition, the State as a cooperating agency will assist in preparing sections in the environmental impact statement and/or supporting documents.

D. THE FOREST SERVICE SHALL:

1. Fully utilize the data and assessments provided by the State as baseline information, and utilize State assistance in developing alternatives and addressing environmental effects associated with the alternatives.
2. Provide the State with a schedule of all Bighorn Forest Plan Revision Steering Committee meetings.

3. Provide information and drafts that require input or review to the State with adequate time for analysis.

4. Be the lead agency for the project.

E. THE STATE OF WYOMING SHALL:

1. Designate liaisons from the specific State agencies and other State institutions who will provide information and special expertise, and will assist in interpreting and analyzing impacts with respect to each agency's area of expertise. Those agencies and their authority to participate include, but are not limited to:

- Office of Federal Land Policy, W.S. * 9-1-207 and Exec. Order 95-1
- Wyoming Game and Fish Department, W.S. * 23-1-302
- University of Wyoming, W.S. * 21-17-113

The Forest Service recognizes delegation of authority as required by the Federal Advisory Committee Act (FACA) as amended by Section 204 of Public Law 104-4, Unfunded Mandates Reform Act of 1995 (2 U.S.C. Section 1534(b)).

2. Recognize the following State agencies as having resources and information which may be utilized by the entities named in clause E.1., in order to fulfill their designated roles in this MOU. Those agencies include:

- Wyoming Department of Environmental Quality
- Wyoming State Engineers Office
- Wyoming State Geological Survey
- Wyoming Department of Agriculture
- Oil and Gas Conservation Commission
- Wyoming Parks and Cultural Resources Commission
- Office of State Lands and Investments
- Wyoming Business Council
- Wyoming Department of Transportation
- Board of County Commissioners, Big Horn County
- Board of County Commissioners, Johnson County
- Board of County Commissioners, Sheridan County
- Board of County Commissioners, Washakie County
- Lake DeSmet Conservation District
- Powder River Conservation District
- Sheridan County Conservation District
- Shoshone Conservation District
- South Big Horn Conservation District
- Washakie County Conservation District

3. Through the Office of Federal Land Policy, provide a principal investigator to collect data for and write a social assessment of the relationship between the Bighorn National Forest and adjacent communities directly or indirectly affected by Forest Service planning decisions. The social assessment will include a community profile for each community. The profile shall discuss (1) the community as a whole, (2) the community's relationship to forest resources and, public lands, and (3) the community's interrelationship to the national forests, including understanding of National Forest policies. In addition, the profiles should utilize community data already collected by the Forest Service.

Based on this social assessment, the State of Wyoming will also provide a social effects analysis for all alternatives developed in the environmental impact statement (EIS), both Draft and Final. This social assessment will be considered in conjunction with the economic assessment, and will form the bulk of the social environment section in the EIS.

4. As part of the forest planning process as described at 36 Code of Federal Regulations 219.19(a)(6), the Wyoming Game and Fish Department will provide any available population data and map~ for Management Indicator Species (MIS) selected for the Revised Forest Plan. Updated population data will also be provided at intervals in the future as part of ongoing monitoring of the Revised Forest Plan. Population data and maps will also be provided for threatened, endangered, and Forest Service sensitive species, as available.

The Wyoming Game and Fish Department will assist in developing and assessing planning strategies and identifying impacts and alternatives to those portions of the Revised Forest Plan that have the potential to impact fish, wildlife or their habitats.

5. The parties recognize that the Wyoming Department of Environmental Quality has been designated as the primary agency responsible for air and water quality in Wyoming.

6. Be identified as a cooperating agency for the project.

F. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. **TERMINATION.** Either party(s), in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration.

2. **PARTICIPATION IN SIMILAR ACTIVITIES.** This instrument in no way restricts the Forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.

3. **ADMINISTRATIVE.** Nothing in this MOU will be construed to alter the legal rights and remedies that each party would otherwise have.

Nothing in this MOU will be construed to extend jurisdiction or decision-making authority to either party to this MOU, beyond that which exists under current law, regulations, or ordinances.

Nothing in this MOU will be construed as limiting or affecting the authority or legal responsibility of any party, or as binding any party to perform beyond the responsive authority of each, or to require them to assume or expend any sum in excess of appropriation available.

The provisions of this MOU are subject to the laws and regulations of the State of Wyoming, the laws of the United States, and the regulations of the Secretary of Agriculture.

4. SOVEREIGN IMMUNITY. The State of Wyoming and the Forest Service do not waive their sovereign immunity by entering into this MOU, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

5. ENTIRETY OF AGREEMENT. This MOU, consisting of five (5) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

6. SEVERABILITY. Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

7. THIRD PARTY BENEFICIARY RIGHTS. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this MOU shall not be construed so as to create such status. The rights, duties and obligations contained in this MOU shall operate only between the parties to this MOU, and shall inure solely to the benefit of the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.

8. MODIFICATION. Changes within the scope of this instrument shall be made by the issuance of a bilaterally executed modification.

9. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

10. NON-FUND OBLIGATING DOCUMENT. This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for

training or other services must fully comply with all applicable requirements for competition.

11. PRINCIPAL CONTACTS. The principal contacts for this instrument are:

Joel Strong
USDA, Forest Service
Bighorn National Forest
2013 East Side 2nd St.
Sheridan, Wyoming 82801
(307) 674-2600

Art Reese
State of Wyoming
Office of Federal Land Policy
Herschler Building
Cheyenne, Wyoming 82002
(307) 777-7331

12. COMPLETION DATE. This instrument is executed as of the date of the last signature and, unless sooner terminated, is effective through December 31, 2005 at which time it will expire unless renewed.

THE PARTIES HERETO have executed this agreement.

OFFICE OF STATE LANDS & INVESTMENTS

Art Reese
ART REESE
Director
Office of Federal Land Policy
10-31-00
Date

ATTORNEY GENERAL'S OFFICE APPROVAL AS TO FORM

[indecipherable signature]
Assistant Attorney General
10-31-00
Date

USDA FOREST SERVICE

William T. Bass
WILLIAM T. BASS
Forest Supervisor
Bighorn National Forest
11-7-00
Date

The authority and format of this instrument have been reviewed and approved for signature.

Margot Braylon Gray
FS Agreements Coordinator
10-29-00
Date



JIM GERINGER GOVERNOR

State Of Wyoming
Office of Federal Land Policy

September 26, 2000

TO: Board of Commissioners, Sheridan County
Board of Commissioners, Johnson County
Board of Commissioners, Big Horn County
Board of Commissioners, Washakie County
Shoshone Conservation District
South Big Horn Conservation District
Washakie County Conservation District
Powder River Conservation District
Lake DeSmet Conservation District
Sheridan County Conservation District
Big Horn Mountain Country Coalition

We invite you to help us design the intergovernmental cooperative process for the revision of the Bighorn National Forest Land and Resource Management Plan (plan) on Thursday, October 12, 2000, in Sheridan. We will discuss the State of Wyoming's formal cooperating agency status and what functional role that provides the State in the Plan revision process, then discuss how the Counties, Conservation Districts, and the Coalition want to and are able to participate in that cooperating agency status with the State. We would also like input from each of the partners on designing a good public involvement process and determining how each of the partners can best contribute to that public process.

The meeting will begin at 1:00 pm at the Bighorn Forest office conference room 2013 Eastside 2nd Street Sheridan. If you are arriving on Interstate 90, take Exit 23 (5th Street) and proceed east up the hill past the Game and Fish Visitor's Center and the Wyoming Welcome Center. The Office is located to your right at the top of the hill, on the left-hand side of the road to the landfill.

A tentative agenda is attached. We look forward to meeting those of you we don't know, and to working with all of you throughout the Plan revision process.

Sincerely,

_Art Reese_____
Bass_____
Art Reese, Director
Office of Federal Land Policy

Sincerely,

_William_____
Bill Bass, Supervisor
Bighorn National Forest